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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1304 of 2022 (O&M)
DATE OF DECISION : 12.05.2022

Kotak Mahindra General Insurance Company Limited …..Appellant

versus

Smt. Urmila Devi @ Urmila Negi and Others .....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajbir Singh, Advocate for the appellant

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ALKA SARIN, J. (Oral):

This is an appeal by the Insurance Company challenging the award dated 12.10.2021 passed by the Motor Accident Claims Tribunal, Chandigarh.

Learned counsel for the appellant-Insurance Company would contend that the accident took place due to the fault of the deceased and that the driver of the offending vehicle was not at fault. The learned counsel has further relied upon the testimony of the driver RW1-Ravinder Kumar Dogra as well as the testimony of PW2-Amit Dhawan to contend that from a conjoint reading of their statements it was clear that the deceased was at fault. Learned counsel for the appellant-Insurance Company has further contended that the income of the deceased has also wrongly been assessed by the Tribunal in as much as no official from the Income-Tax Department was produced to prove the income-tax returns.

Heard.

The brief facts relevant to the present *lis* are that on 13.06.2019 at about 4.00 pm the deceased Paramjit Singh @ Paramjit Negi was going on the road leading from Patiala Chowk, Zirakpur to Aero City, Mohali via Village Chhat Traffic Light Point on an Activa Scooter bearing registration no.HR03-L-2710 at a slow speed and on the left side of the road. He was being followed by Amit Dhawan, PW2, who was on a separate Activa Scooter. When they reached in front of AKM Resort, Zirakpur, a car bearing registration no.PB65-AC-2598, which was being driven by respondent No.6 herein at a fast speed and in a rash and negligent manner, came from behind and after overtaking the Scooter of Amit Dhawan struck the Activa Scooter of the deceased. As a result of the accident, the deceased fell on the road and received serious injuries and eventually succumbed to the same. Claim petition was filed by the wife, mother and three daughters of the deceased claiming a compensation of Rs.75 lakhs. It was stated in the claim petition that the deceased was self-employed and was running a cloth business and was earning Rs.1 lakh per month. It was also stated that the deceased was an income-tax payee. The claim petition was contested by the respondent Nos.6 and 7 i.e. driver and owner of the offending vehicle raising the preliminary objection that the claimants had not approached the Tribunal with clean hands and that the claim petition had been filed just to extract compensation. On merits, it was stated that there was no fault on the part of the driver of the offending vehicle and it was the deceased who was driving the Activa Scooter in a rash and negligent manner and tried to cross the road from the wrong side without giving any signal and without following the traffic rules. The claim petition was also contested by the appellant-Insurance Company on similar grounds. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether Paramjit Singh @ Paramjit Negi has died in a road side accident due to rash and negligent driving of Car bearing registration No.PB65-AC-2598 by respondent No.1? OPP
2. Whether the claimants are entitled to compensation, if so to what amount and from whom? OPP
3. Whether respondent No.1 was not having a valid and effective driving license at the time of accident? OPR-3
4. Relief.

On the basis of the pleadings of the parties and the evidence led, the Tribunal held that the accident was caused by respondent No.6 while driving the offending vehicle in a rash and negligent manner resulting in the death of Paramjit Singh @ Paramjit Negi and the claimants were held entitled to receive compensation of Rs.30,68,363/- along with interest at the rate of 7½ % per annum from the date of filing of the claim petition till the date of the award.

In the present case, the eye-witness i.e. Amit Dhawan, who had appeared in the witness box as PW2, had clearly stated the manner in which the accident had taken place. In the cross-examination of the said witness nothing could be elicited which would even remotely suggest that the version as put forth by the eye-witness was incorrect. The driver of the offending vehicle, Ravinder Kumar Dogra, stepped into the witness box as RW1 and stated that the deceased was driving the Scooter on the wrong side. However, except the said statement of the driver no other details as to where the deceased had tried to cross the slip road in a rash and negligent manner are forthcoming from the statement or from the pleadings. The pleadings are totally bereft of any details which could even remotely show that the deceased was driving the Activa Scooter on the wrong side of the road. A conjoint reading of the statement of the eye-witness as well as of the driver leaves no manner of doubt that the accident had taken place because of the rash and negligent driving of respondent No.6. The argument raised by the appellant-Insurance Company, hence, stands rejected.

The second argument of the learned counsel that the income of the deceased has wrongly been assessed also deserves to be rejected in as much as the income of the deceased has been assessed by the Tribunal on the basis of the income-tax returns. Merely because no official from the Income Tax Department was produced would not be a ground to reject the income-tax returns. The income-tax returns were produced on the record by the claimants and no doubt qua the authenticity of the same was raised by the appellant-Insurance Company. In the case of **Baljit Kaur & Ors. vs.**

Bhagwan Singh & Ors. [FAO No.4898 of 2011 decided on 25.07.2014] it was held as under :

> "*……….The Tribunal did not give exhibit number for them since an authority from the Income Tax Department has not been examined to vouch for the authenticity of the documents. It must be remembered that Section 169 of the Motor Vehicle Act sets out a summary procedure and provisions of the Evidence Act are not necessary to be applied. Unless there is a gross doubt about the economic status of the persons and there is also doubt expressed about the nature of business which the deceased was carrying on, the production of an acknowledgment of filing of income returns from the Income Tax Department with the seals of the Income Tax Officer, they shall be taken as appropriate evidence for assessment of income status of the deceased…….*"

The proceedings before the Tribunal are summary in nature and do not admit strict principles of law of evidence to be applied. Considering the scheme of the Act, which is a beneficial piece of legislation, the income-tax returns produced by the claimants ought not to be rejected merely because they have not been proved by some official from the Income Tax Department unless some serious doubts are raised qua the authenticity of the same. In the present case the counsel for the appellant-Insurance Company has not raised any argument about the authenticity of the income-tax returns produced but only questioned the mode of proof. As such, this Court finds no reason not to accept the income calculation of the deceased as adopted by the Tribunal.

In view of the above, I do not find any illegality or infirmity in the award passed by the Tribunal. The appeal is accordingly dismissed. The statutory amount be remitted to the Executing Court. Pending applications, if any, also stand disposed off accordingly.

12.05.2022 **(ALKA SARIN)**
parkash **JUDGE**

NOTE:
Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

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